EXISTENTIAL EXAMINATION OF SPECIALIZED JURISDICTION AND COMPREHENSIVE LEGISLATION WITH REGARD TO GREEN CRIMES

A

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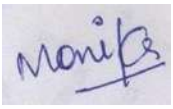
I, **Monika Kothiyal**, declare that the synopsis titled, **"Existential Examination of Specialized Jurisdiction and Comprehensive Legislation with Regard to Green Crimes"** being submitted in the partial fulfillment of the requirement for the award of the degree of Doctor of Philosophy in Law under ICFAI Law School, The ICFAI University, Dehradun during the academic year 2022-23.

It is the work that is expected to be carried out under the supervision of **Dr. Ashish Kumar Singhal**. It is further declared that the synopsis is within the plagiarism limit and copy of the same is attached as per the University norms.



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This is to certify that the thesis entitled, **"Existential Examination of Specialized Jurisdiction and Comprehensive Legislation with Regard to Green Crimes"** is an original piece of work done by ***Ms. Monika Kothiyal*** under my supervision being submitted in the partial fulfillment of the requirement for the award of the degree of Doctor of Philosophy in Law under ICFAI Law School, The ICFAI University, Dehradun during the academic year 2022-23.

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ABSTRACT

Without a healthy ecology, human existence is virtually impossible. Today, the protection of the environment is not a local or national matter, it is a universal concern, Environmental law is undoubtedly a pillar of environmental protection, but after many decades it is still suffering in most of the world due to poor implementation of laws, leading to failure of Environmental Justice. Each country introduces specialised laws Environmental to deal with environmental cases and to make the access to environment justice.

In order to apply environmental legislation and the idea of sustainable development, it is now essential to consider how the courts are set up, how environmentally conscious they are, as well as the various national access to justice systems. Development is one another fact for failure of implementation of Environment Justice, today society's interaction with the nature is so extensive that the question of environment has assumed proportions affecting all humanity. Global environmental degradation has been exacerbated by a number of reasons, including industrialization, urbanisation, population growth, poverty, excessive resource use, depletion of traditional energy and raw material resources, and the quest for alternative energy and raw material sources. Green crime involves illegal activity that not only directly harms the environment but threatens our wildlife, impacts business supply chains, and poses a danger to security and stability around the world.

Like other forms of crimes, environmental crime is taught in a diverse range of scientific areas. Every act or process, whether permanent or transient, that has a negative impact on the environment, people's health, or natural resources is considered an environmental crime, also known as a "green crime," such as the construction, alteration, abandonment, or destruction of buildings; the handling and processing of waste; emissions into water, air, or soil; the transport and handling of dangerous substances; the damage or destruction of natural resources; and the reduction of biological diversity.

Green crimes include regional, national, and international issues (such as pollution, ecological damage, and poaching) as well as extensive effects like climate change and anthropogenic species extinction. There are many live victims of these many acts, not just humans. Environmental justice activists and

academics have developed the concepts of "Green Crimes" and "Green Justice." The existing Environmental Law and its implementation takes the conventional, single-issue 'adjudication' conflict between the parties outside the courthouse door with its tacit and often overt formation of a scientifically based approach that aims to ensure minimum harm the environment and to protect the broader interests of society and industries. Scientific experts extend the pragmatic analysis to widen the application of the rules and regulations where the operation is adverse to public health and the community. Such an understanding represents the general interest as opposed to private or human interest.

Keywords: Green Criminology, Corporate crime Environment Justice, conservation, Policy, Deforestation, Loss of Species Protection, Preservation.

Introduction

In the absence of a healthy ecosystem, human existence is practically impossible. In the modern world, environmental protection is a concern that affects all countries and regions equally. Although environmental legislation is debatably a foundation of environmental protection, it still suffers from poor implementation in the majority of the world that results in the failure of environmental justice. Specialized laws are introduced by each nation to protect the environment and to make access to environmental justice easier. The implementation of both environmental law protection and the idea of sustainable development has faced significant obstacles related to national access to judicial systems.

The Stockholm Statement is regarded as Magna Carta in the history of environmental protection and accomplishing the goal of sustainable development; the declaration, in addition to 26 preambles, also consists of seven universal truths. It also made a number of significant decisions, resolutions, and recommendations to address the issue, one of which was to take urgent action and create an action plan to address environmental degradation and climate change.

The conference and the general assembly adopted its resolutions prepared the stage for the constitutional Amendments in of the signatory countries. In India two new articles were specifically incorporated i.e. Articles 48-A and 51A(g) into the guiding principles of state policy. As a result of this meeting, the Indian parliament passed a number of laws, including the Water (prevention and control of pollution) Act 1974, the Air (prevention and control of pollution) Act, the Environment Protection Act, the Forest Act, and many others.

The term "green criminology" was introduced by Michael J. Lynch in 1990, and expanded upon in Nancy Frank and Michael J. Lynch's 1992 book, *Corporate Crime, Corporate Violence.*[1] The terms gained further momentum after the article on "*Theoretical Criminology* edited by Piers Beirne and Nigel South in 1998[2]" was published in the special issue. Now, green criminology has begun to appear in

1. Frank, Nancy and Michael J. Lynch 1992 Corporate Crime, Corporate Violence. Albany, NY: Harrow and Heston.

[2] South, Nigel; Beirne, Piers (May 1998). "Editors' Introduction". *Theoretical Criminology*. **2** (2): 147–148.

university-level texts and curricula in criminology and other disciplinary subjects.[3] In simpler terms, Green crimes are unauthorized act or omissions which are perpetrated against the nature or wildlife. Air pollution, water pollution, deforestation, extinction of species, and improper disposal of hazardous material are all examples of environmental crimes. Though, the term is new, however, the crime like deforestation, hunting, poaching, illegal trade of wildlife, illegal logging, air pollution, water Pollution, illegal mining, water dumping in water bodies etc. are some activities which were being followed by generations without knowing the fact that they are contributing to environment pollution.

The Stockholm Declaration, a 1972 multinational attempt to address the issue of sustaining and developing the human environment, this was the marked the first time that crime gained widespread attention. It was the first significant effort to examine the effects of humans on the environment globally.

The Rio Declaration of 1992 established the guiding principles that emphasize the importance of environmental protection and set forth international standards for d oing so, following the Stockholm Declaration

The National Green Tribunal of India (NGT) was established after a lengthy and complex process that was influenced by a number of issues. The first aspect that needs to be highlighted is the constitutional background, which demonstrates a continuous evolution from a lack of environmental protection principles (in the original text of the Constitution, in force since 1950) to the development of a bewildering array of environmental legal instruments and judicial actions. These successes were made possible by the constitutional amendments of 1976.[4] The constitutional amendments mandate active participation from both the state and the citizen under Article 48(A) to safeguard the environment as they contain a reference to the state government as well as "a constitutional reference to the state and a constitutional duty to the citizen of India not only to safeguard but also to improve , Protect the environment and also to preserve the forest, the flora and fauna, the rivers and lakes, and all other water resources of the country.[5]

This constitutional amendment created the path for judges to actively participate i n environmentalissues. The right to healthy and clean environment is basic

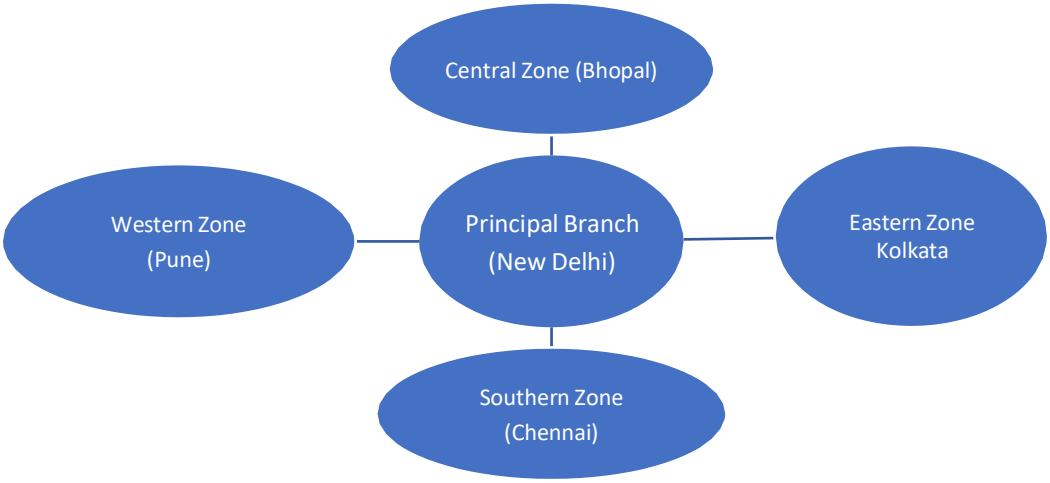
[3] White, R., & Heckenberg, D. (2014) 'Green Criminology: An Introduction to the Study of Environmental Harm' London: Routledge.

[4] INDIA CONST. Art. 48 & art. 51(g), amended by The Constitution (Fortysecond Amendment) Act, 2007

[5] GURDIP SINGH, ENVIRONMENTAL LAW IN INDIA 69 (2011).

necessity of right to life itself, and as it was stated, " The Supreme Court of India exercised its original authority under Article 32 of the Constitution by way of enforcement, and this is where the genuine advancement in the field of environmental law occurred.."[6]

The structure of National Green Tribunal in India is divided into five zones North, Central, East, South, and West. Headquarters of National green tribunal is in Delhi, the Principal Bench is located in the North Zone. The East Zone Bench is in Kolkata, the South Zone in Chennai, the West Zone in Pune, and the Central Zone Bench is in Bhopal. The total number of members in Tribunal is 10 and it may extend to not more than twenty judicial members, the Chairperson, who sits on the Main Bench.



Structure of National Green Tribunal

Section 14 of the Act establishes the tribunal's jurisdiction, stating that it applies to "all civil cases where a substantial question relating to environment is involved, including enforcement of any legal right relating to environment and such question arises out of the implementation of the enactments specified in Schedule I."[7]

Although the National Green Tribunal was established, there are still some issues

[6] Harish Salve, Justice Between Generation: Environment and Social Justice, in SUPREME BUT NOT INFALLIBLE: ESSAYS IN HONOR OF THE SUPREME COURT OF INDIA 360, 366 (B.N. Kirpal, Ashok H. Desai, Gopal Subramanium, Rajeev Dhavan & Raju Ramachandran eds. 2000).

[7] . Schedule I lists the main environmental laws of the Indian union: (1) The Water (Prevention and Control of Pollution) Act, 1974; (2) The Water (Prevention and Control of Pollution) Cess Act, 1977; (3) The Forest (Conservation) Act, 1980; (4) The Air (Prevention and Control of Pollution) Act, 1981; (5) The Environment (Protection) Act, 1986; (6) The Public Liability Insurance Act, 1991; and (7) The Biological Diversity Act, 2002. See The National Green Tribunal Act, No. 19 of 2010, INDIA CODE (2010), vol. 19.

with the courts' jurisdiction because the Act specifically states that it only applies to civil matters and excludes criminal offences. The National Tribunal Act therefore does not apply to Green Crimes. The Wildlife Act and Forest Act are excluded from Schedule I for this alleged purpose. Due to the complexity of the legal system and the ongoing cases in criminal courts, environmental cases should not be kept in existing courts. Instead, the judicial system must be completely reevaluated in order to make room for new courts and prevent a miscarriage of justice.

Research Problem

The specialised environmental laws are the foundation for environmental protection, but a large portion of the world continues to experience poor application of environmental laws, which results in the failure of environmental justice. Development is one of the main reasons why environmental justice initiatives have failed. According to studies, laws protecting the environment are unquestionably violated in favour of "growth," which directly affects environmental justice. Establishment of environmental courts at district level are the nearest solution to solve the problems related to environmental justice. While these environmental courts hold immense potential for administration of environmental justice, their implementation poses several **key challenges**. Some of the key challenges are:

- **Comprehensive Legislation:** In India we have several legislations to deal with cases relating to green crimes. Indian Penal Code, 1860 -(Section 268-294-A) of the Penal Code deals with the offences related to safety, public health, etc. These sections make public health a priority and any act which pollutes environment and make the life of an individual dangerous is punishable under the Code. The Wildlife Protection Act, 1972'-To prohibit the hunting of specified wild animals, birds and plants. The Water Act, 1974-To punish the violators of the act and provides for the criminalization of the corporate personnel who pollutes the environment. The Air Act, 1981 The Forest Conservation Act, 1980.The Environment Protection Act, 1986-An umbrella legislation with many objectives. Public Liability Insurance Act, 1991. Hazardous Wastes (management, handling and trans-boundary) Rules, 2000. Noise Pollution (regulation and control) Act, 2000. Biological Diversity Act, 2002. To put all laws into a straight jacket would be a difficult task.

- **Institutional Framework:** The implementation of environmental courts at grassroot level requires various systems and platforms to work together, which can be challenging.
- **Establishment of Green Courts:** In order to establish a Green Court at the local level, judges with expertise in environmental science would need

to be appointed, broadening the purview of environment courts. As environmental law and other fields are related, it is important to make a distinction between environmental matters from other cases.

- **Regulation and legal framework:** Since they are still in their infancy, there is uncertainty on how Green Crimes and Environmental Courts should be regulated and run.
- **Education and awareness:** The study of green crimes is a complicated field that calls for specialised training. There is a need to inform and educate college and high school students to these issues.

Moreover, the **existing regulatory framework** for environment Protection needs to be examined with jurisdiction of existing courts and the execution of the judgment in current scenario. This is important to ensure that the authorities presiding the court have the special experience relating to the subject matter. In India the government have taken steps to adjudicate matters relating to green crimes and also established National Green Tribunal for the speedy disposal of cases. The central government have launched various schemes for conservation of environment i.e. nagar Van Udyan Scheme, project Tiger and one of the most well-known scheme is Swachh Bharat Abhiyan are some of the important measures taken by government for environment protection

However, it is important to ensure that these scheme are effective in addressing the protection of environment from Green Crimes. The need of Environment Courts is essential for creating strict punitive measures as the preservation of nature is crucial because it significantly affects human health, both in regards to minimizing infectious disease and its appearance. Having a wild habitat stops infectious diseases from spreading from animals to people. One well instance is the Novel Coronavirus outbreak. Additionally it is essential to explore how the regulatory Framework of environmental legislation can be designed with respect to jurisdiction of environment court so that the purpose of conservation of environment from green crimes could be achieved.

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Literature Review

i. ***Professor Usha Tandon (2018), "Environmental Courts and Tribunals:A Comparative Analysis of Australia's LEC and India's NGT ", The Indian Yearbook of Comparative Law, Oxford University Press.***

"Environmental Courts and Tribunals: A Comparative Analysis of Australia's LEC and India's NGT" is a article by Professor Usha Tandon, originally published in 2014. The article compares the environment courts and Tribunals in Australia and India and closely explains the function and procedure administration of environment justice. The author includes the discussion on the environmental disputes settlements at the international level and setting up of an International Court for Environment within United Nations.

The author have not discussed the establishment of environmental courts at grass root level

Research Gap:

The potential research gap that could be explored is the degree to which Usha Tandon's article is that the author have done comparative analysis between the National Green Tribunal and Australia's Land and Environment Court with respect to their functioning, statutory provisions and historical background. The author made recommendations for a number of stakeholders, particularly the Ministry of Environment and Forests and Climate Change, to remove obstacles from its effective and efficient operation, including by providing infrastructure and hiring staff with the necessary skills to handle the many issues that are brought to its attention. However, it may be worth considering how Usha Tandon's work has influenced the development of the field of environment court and new research questions have emerged regarding existing jurisdiction of National Green Tribunal

ii. Lal Kurukulasriya and Kristen A Powel.(2010), "History of Environmental Courts and UNEP's Role", Journal of Environmental Law, Volume 32, Issue 3

Lal Kurukuasriya and Kristen A Powel's article "History of Environmental Courts and UNEP's Role" explains the development of environmental court at international level. The article provides an overview of environmental courts and discuss vairious conferences where the matter relating to environment court were considered.

The article discusses various programme that have been organized by United Nation Environment Programme (UNEP). author also explores the challenges that arise o Environment Court or Environment Tribunal in decision-making, such as the need for transparency and accountability.

Research Gap:

"History of Environmental Courts and UNEP's Role" by Lal Kurukuasriya and Kristen A Powel was published in 2010 at the time when National Green Tribunal established in India and exercising its jurisdiction in India on the issues relating to civil matters.

Researcher explains the history of environment Courts and explains that Since late 1960s, widespread public awareness of environmental issues has resulted in a growing number of movements that aim to confront environmental degradation to protect environment from illegal practices that are harmful on Environment
Problems on execution of Environmental law not covered.

Overall, Lal Kurukuasriya and Kristen a Powel's article provides an important foundation for exploring the development of environment court in International level through programs, conferences and conventions, there is a need for continued research on the topic to address the emerging issues and challenges associated with the Jurisdiction of environment court in decision-making.

iii. Brian J Preston. (2018). Environmental Courts and Tribunals: Improving Access to Justice and Protection of the Environment Around the World, Pace Environmental Law Review.

The article " *Environmental Courts and Tribunals: Improving Access to Justice and Protection of the Environment Around the World* " by *Brian J Preston* discusses the role of environment court in decision-making. The authors describe the development of an environments and Tribunals around the world, which was designed to provide environment justice.

Author discussed the establishment of Specialized Environment Courts and Tribunals (ECT) in 20 countries, and noted that 15 additional countries have authorised them but have not yet done so, while 7 countries had operated them before deciding to stop. Traditional judicial and administrative systems as well as the way environmental disputes are decided are all being rapidly altered by these new specialised adjudication bodies.

Research Gap:

The article " *Environmental Courts and Tribunals: Improving Access to Justice and Protection of the Environment Around the World "* by Brian J Preston, published in the journal Pace Environmental Law Review in 2018, Compared the ecvironmental court of various countries and their jurisdiction with respect to green crimes.

The author has done the comparative analysis of environment court in India, United states, Australia and United Kingdom. The researcher conveys that there are two main objectives are cited for the creation of Environment Court First is rationalization and the second is specialization.

One potential research gap in this article is the lack of discussion on, the rationalization as to the hierarchy of environment courts in the judicial system.

. While the authors touch on the benefits and drawbacks of using such a system,

they do not fully explore the legal considerations for the setup of environment courts at grass root level

iv. ***Gill, Gita (2012). The National Green Tribunal, India: Evolving Adjudicatory Dimensions of a Specialized Environmental Forum, Journal of Environmental Law,***

In this article, Gill Gita discusses the objectives of ECT and makes suggestions for the efficient resolution of environmental disputes as well as for increasing awareness of the importance of procedural and substantive justice in relation to environmental issues.

The author also highlights a thorough investigation on ECTs conducted in 2009 by eminent researchers George Pring and Catherine Pring, which found over 350 ECTs in 41 countries. 3 In 2016, there were over 1,200 ECTs operating in 44 countries, spanning all governmental tiers and encompassing all main legal systems (civil law, common law, mixed law, Asian law, and Islamic law), with the majority having been established in the previous years..

Research Gap:

While Gill Gita's article provides a comprehensive framework for understanding the procedurl and substantive justice in relation to environment issues, there are several areas that could be further explored by future research. Some potential research gaps include:

- Application of the framework: While Gill Gita's framework provides a comprehensive overview of the various types of ECT's around the world, it would be interesting to see how this framework applies to civil cases only.

- Dynamics of procedural and substantive justice: Gill Gita emphasizes that procedural and substantive justice, but does not delve deeply into the

factors that drive substantive and procedural change over time. Further research could explore the area of green crimes that shape the evolution of procedural and substantive justice.

v. Raghav Sharma. (2016). Green Courts In India: Strengthening Environmental Governance, Environment law and Development Journal.

In his article "Strengthening Environmental Governance," Raghav Sharma This emphasises the issues plaguing the Indian court system that have led to a request for a specialised judiciary. The author explored the evolution of environmental jurisprudence in India as the essay's background. In light of the international experience pertaining to similar courts in Australia and New Zealand, the author discusses the Law Commission of India's key recommendations addressing many aspects of the proposal for a "green" court.

The author also emphasises how, despite being exhaustive as well as comprehensive on well-known aspects of the issue, the Law Commission's 186th Report fails to comprehend and explore the relatively obscure anomalies that beset the idea of having Green Courts in the recommended form. This gap makes the proposed institutional arrangements myopic.

Overall, Scherer's article provides a comprehensive overview of the risks and challenges associated with establishment of Green Court and highlights the need for a regulatory framework that is adaptable to the ever-evolving field.

Research Gap:

While Raghav Sharma’s article on "Strengthening Environmental Governance," provides a comprehensive overview of the challenges and potential risks associated with establishment of Green Courts, it does not provide a detailed analysis of the specific legal and regulatory frameworks that are currently in place or being developed to address these challenges.

The researcher in this article discussed the provisions relating to development of environmental jurisprudence. The author propose to showcase the Law Commision of India's significant recommendations regarding various dimensions of the 'green' court project in light of the international experience concerning such courts in Australia and New Zealand. Could have added individual participation in Policy making

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vi. Domenico Amirante (2012). Environmental Courts in Comparative Perspective: Preliminary, Pace Environmental Law Review Volume 29 Issue 2

The article " *Environmental Courts in Comparative Perspective: Preliminary* " by Domenico Amirante, published in 2012, From comparative standpoint, this article addresses the "pros" and "cons" of the creation of Green Tribunals in the Indian judicial system. It starts by reviewing current trends showing a significant preference for specialised jurisdictions and compares them to the European and American experience, which is normally more favourable to generic courts and tribunals.

In addition, the author argues that, in terms of effectiveness and social legitimacy of a "sustainable legislation," "green tribunals" appear to be highly helpful tools to serve the expanding needs of environmental protection and sustainable development.

Research Gap:

While " Environmental Courts in Comparative Perspective: Preliminary by Domenico Amirante provides a thorough analysis of the legal frameworks governing environment court in various countries, there are some potential research gaps that future research could address:

The article focuses primarily on legal and regulatory frameworks and does not explore the broader aspect of Green Courts. Future research could examine the impact of establishment of Environment court in India, including issues related to environment protection, environment justice, and the jurisdiction of court.

The article primarily focuses on the legal frameworks governing Environment laws in developed countries and does not examine the regulatory landscape in developing countries. Future research could explore how developing countries are addressing the challenges on Green Crimes, and whether there are differences in the approaches taken by developed and developing countries.

vii. Nicholas A. Robinson (2012). Ensuring Access to Justice Through Environmental Courts. Pace Environmental Law Review Vol. 29

The article "Ensuring Access to Justice Through Environmental Court" by Nichlas A. Robinson, discusses the The phrase "grass roots" is often used to describe social movements that start locally and spontaneously. These movements Primarily rely on their local roots, direct service to affiliated contituents, and inimum reliance on on upper echelons of social decision-making for their survival

"Grass roots" appears appropriate when used to describe the global rise of environmental courts and tribunals over the past ten years. In more than 41 nations, there are already more than 350 environmental courts and tribunals.

Overall, the article suggests that establishment of green courts at grass root level would be an important step towards protecting environment in India and could have positive implications for the development environment justice.

Research Gap:

One potential research gap in "Ensuring Access to Justice Through Environmental Court", is the lack of discussion around the procedural aspect of environmental courts. While the article does touch on the procedural or statutory aspect of environmental courts for research and development, it does not explore the potential challenges that may arise for establishment of such courts.

Another research gap is the jurisdictional aspect of Environmental court and the qualification of the authorities to preside such courts of protecting environment

from green crimes and ensuring environment justice. While the article provides an overview of the green courts and further research in this area could provide valuable insights.

viii. **Reece Walters & Diane Solomon Westerhuis** ***(2013). Green crime and the role of environmental courts, Crime Law and Social Change***

The article "Green crime and the role of environmental courts " by. Reece Walters & Diane Solomon Westerhuis (2013), provides an overview of various environmental crimes and offences, rising as a result of recent environmental changes. Environmental or “green crime” judicial processes are expanding quickly in many countries.

Article also highlights regulatory and legal frameworks of nation states to guarantee adherence to international environmental law, ranging from various Conventions and Protocols i.e. convention on International Trade in Endangered Species of Fauna and Flora (CITES), the Montreal Protocol, Basel Convention, and Kyoto Green crime and the role of environmental courts 281 Protocol.

Finally, the article goes on to mention that there were at the time 41 nations offering "green chambers," specialised judges, and tribunals. Many of these environmental judicial settings play specialised roles while keeping national or local characteristics. The jurisdiction of these courts varies nation to nation: some are civil (non-criminal) courts, some are criminal courts and some are administrative courts

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Research Gap:

While the authors discuss the environmental courts or green chambers of 41 national states and highlighted the legal and regulatory framework of nation state to guaranteed adherence to international environmental law, ranging from various Conventions and Protocols, they do not provide a detailed analysis of regulatory framework that could be effective in India to impart environment

justice

Additionally, the author has outlined the emergence of green courts and conducted a thorough analysis of cases of green crimes; nevertheless, Green justice with regard to land management and development has not been covered.

Therefore, future research could focus on evaluating the establishment of environment court at different level and addressing the challenges associated with implementing legal framework and regulatory measures for environment justice.

ix. Tim Stephins (2005) "The Role of International Courts and Tribunals in International Environmental Law", Journal of Environmental Law, Volume 30, Issue 2

The article provides an overview of the ways in which, the author discusses a number of fundamental topics that have already started to garner international consensus, such as the responsibility of governments for transboundary harm. But it also went beyond, highlighting the necessity for governments to safeguard the environment for their own sake and the sake of future generations, as well as to nudge them towards implementing an integrated and coordinated approach to environmental management.

Overall, the article provides a comprehensive introduction to improve the effectiveness of the national legal system This study has been incorporated into these discussions in the particular context of environmental regime, which may improve its effectiveness. It has attempted to explain situations in which international environmental litigation may successfully contribute to international environmental law by examining the real potential and function of international courts and tribunals.

Research Gap:

One potential research gap in the article "The Role of International Courts and Tribunals in International Environmental Law", Tim Stephins (2005) is the limited discussion of challenges and limitations in the application of environment law at the grass root level for effective administration of environment justice. For

example, issues related to the green crimes at international level and the procedural measures to dispose uch cases, or the potential for unintended consequences or unforeseen acts associated with Green crimes, are not extensively explored in the article.

x. George Pring & Catherine Pring (2016) "Environmental Courts and Tribunals", Book Published by UN Environment, law division

In this book "Environmental Courts and Tribunals"by George Pring and Catherine, authors discuss the global demands for significant improvement in access to justice. Author elaborates the explosion of Environmental Courts and Tribunals in the past 15 years, which reflects widespread discontent with current adjudication institutions for resolving environmental disputes. Additionally, the author discovered that properly designed and run Environmental Courts and Tribunals do, in fact, increase access to justice in ways that are quicker and less expensive than traditional court systems, improve environmental governance, and better promote the rule of law.

This book serves as a detailed resource for Environment Courts and Tribunals planning and capacity building, the various Environment Court and Environment Tribunal models, an expert list of best practices, and a 4-step assessment procedure. It offers a mechanism to assess if an ECT is the best option to increase access to justice, public engagement, and information, as well as environmental justice, community credibility, the rule of law, sustainable development, and "fair, rapid, and affordable" environmental dispute resolution.

Research Gap:

The research gap in this book is that author has detailed the resource of Environment court by comparing Environment Courts and Tribunals of various Nations however the legislative framework of Environment court was very limited to such Nations. While the article provides a valuable comparison of the Environment Courts and Tribunals in nations like Australia, Brazil and New Zealand, it does not explore other countries or regions, which limits the

generalizability of the findings.

Additionally, the article focuses primarily on the legal framework of Environmental court and regulations but does not address how these legal frameworks will be implemented in practice or how they will execute the decisions. Furthermore, the article does not explore the potential challenges and barriers to implementing these laws or the potential unintended consequences of environment Court regulation.

Therefore, future research could expand on this study by conducting a more comprehensive comparative analysis that includes other countries or regions, as well as by exploring the practical implementation of Environment Court and Tribunals. Research could also investigate the perspectives and concerns of various states to assess the effectiveness of current policies in promoting the protection of environment from Green Crimes.

xi. Tseming Yang and Robert V. Percival (2009) The Emergence of Global Environmental Law, Ecology Law Quarterly Vol. 36, No. 3/ University of California, Berkeley

The Book " The Emergence of Global Environmental Law" by Tseming Yang and Robert V. Percival, in this the author of this starts off by outlining some of the global patterns that show the formation of international environmental law. Also, it outlines the intellectual underpinnings of international environmental law as well as the primary processes by which it is being developed: mostly through transplantation and convergence, and to some extent by integration and harmonizing.

The author also looks at some of the factors influencing the development of this brand-new discipline and explains why international environmental law is now taking shape.

The author concludes with a few words on reasons for the emergence of international environmental law might mean for the teaching and practise of

environmental law and discusses some of the applications of international environmental environmental law to the significant case of China. The author then discusses the implications for the practice and development of environmental law across the globe.

Research Gap:

The paper "The Emergence of Global Environmental Law" by Tseming Yang and Robert V. Percival proposes many global trends that demonstrate the development of international environmental legislation from a global perspective. The author in this book only focuses on the idealistic situations that do not necessarily fit to the local situations.

The authors acknowledge that the proposed framework that author compared with china and requires further research and development before it can be implemented in a real-world setting. Therefore, there is a need for more research to validate the feasibility and effectiveness of the proposed framework. Additionally, the paper does not discuss the potential challenges and limitations of the proposed framework, which may need to be addressed in future research.

Furthermore, the paper does not provide a comprehensive analysis of the existing literature on Environment court at the grassroot level. Many global trends that demonstrate the development of international environmental legislation

Therefore, even though the suggested framework is a novel approach, more investigation, development, and field testing are required to confirm its viability and efficiency in solving the problems with the present healthcare system.

Research Gap

As the Legislation on Green crimes in India, is becoming increasingly important to study their regulatory framework and how these laws be implemented in grass root level. Despite the growing interest in this area, there is still a significant research gap in the regulatory analysis for environment court and Green crimes in these two domains.

Lack of comprehensive regulatory frameworks: Despite the growing interest in Green crimes, there is a lack of comprehensive regulatory frameworks that address the unique challenges in this field. In addition to this, there is lack of clear guidelines and regulations. While there are some international and national conventions and programmes in which India is have actively participated, there is still no comprehensive regulatory framework for the jurisdiction of Green crimes. There is a need for regulatory guidelines that can cover not only civil matters but also criminal matters related to environment for administration of environment justice.

Limited Jurisdiction of national Green Tribunal: There is little study comparing the regulatory frameworks of various jurisdictions, despite studies on National Green Tribunals and Environment Courts in several countries. To find gaps, best practises, and chances for international cooperation, a comparative study is required.

Lack of empirical research: Empirical studies are required to determine how Green Crime and Environment court legislation will protect the environment. The efficiency of current regulatory frameworks as well as prospective areas for change can be determined with the use of this research.

Another area that requires research work is the qualifications of various authorities or departments dealing with the matters relating to green crimes. While certain measures to combat green crimes are already under progress in India, it is yet unclear how the system would function at the local level.

Additionally, there is also need to study the judicial system and the National Green tribunal. the study include the penal proisions and the criminal jurisdiction of green crimes under a blanket framework. The administration of environmental justice must be ensured by creating strong regulatory frameworks that handle these issues for the environment court.

Research Questions

1. What are the underlying assumptions for Environment Courts?
2. Whether governments are adopting wide jurisdiction to Green courts to adjudicate on Green crimes?
3. Whether the Environment policies are drafted keeping the future vision of this dynamic world with the continuous increase in Green Crimes?
4. What is the loophole in the implementation of the guidelines/policies?

Research Hypothesis

1. To ensure that the environment is protected from green crimes, the current regulatory framework—which includes extensive legislation in Green Crime and a National Green Tribunal—needs to be improved.

2. Hypothesis: Jurisdiction of criminal matter inn environment law is a major concern which can be assessed and managed effectively by establishing environment court and adhering to strict implementation of international conventions, guidelines and regulations.

3. Hypothesis: In order to ensure that local environment courts will serve to safeguard the environment, regulatory analysis is crucial to the process of collaboration between the federal government and the state in developing guidelines for their development.

4. Hypothesis: To ensure institutional framework for the proper administration of environment matters with respect to green crimes in Uttarakhand.

Research Objectives

1. To identify and analyze the concept of Green crime its nature, scope and its interrelation with the existing legislation in India i.e. Environment (Protection) Act 1986, The Indian Forest Act 1927, Air (Prevention and Control of Pollution) Act 1977, Water (Prevention and Control of Pollution) 1974 Act, The Wildlife Protection Act 1972, Indian Penal Code 1860 etc.
2. To analyze the effects of establishing Green Courts and Qualification for appointment of authorities adjudicating the matters relating to green crime
3. To evaluate the existing regulatory framework and Specialised Jurisdiction, with a focus on Green Crime, and to determine whether it is in compliance with relevant laws and regulations.
4. To assess and analyze the special education, Workshop and Training Program by the experts in Environmental Law, and to develop effective strategies for managing the challenges.
5. To explore the design of a regulatory framework for Environment Courts that promotes Environment Education on Green Crimes and strict penal provisions on violation of these laws, while protecting public interest, and to identify key elements of such a framework, including standards healthy ecosystem.

Significance of Study

The Environmental Protection Act of 1986 served as India's first codification of environmental legislation, which has a long history. Currently, the Ministry of Environment, Forestry, and Climate Change (hereinafter MoEF), which was established in 1985, is the top administrative authority in the nation for formulating environmental protection laws and regulations. During the 1970s, there have been a lot more environmental rules. The MoEF is the industry's central administrative and regulatory body, along with the regional and federal pollution control agencies.

Environmental cases are heard in courts or tribunals that are being established gradually. In truth, environmental courts have a number of benefits, including quick decisions, effectiveness, and qualified, specialised judges who have previously collaborated with local non-judicial specialists.

Article 21, Article 48A, and Article 51A of the Indian Constitution specifically address the environment in order to secure environmental justice for people (g). However, there are also significant challenges associated with the environment court at local level. To address these challenges, regulatory frameworks are needed to ensure that it only applies to civil proceedings and excludes criminal offences, there are still some problems with the courts' jurisdiction notwithstanding the National Green Tribunal's establishment. Hence, Green Crimes are not covered by the National Tribunal Act. For this purported reason, Schedule I excludes the Wildlife Act and Forest Act. Environmental cases shouldn't be kept in the current courts due to the intricacy of the legal system and the ongoing criminal trials. Instead, a thorough evaluation of the legal system is required to make place for additional courts and avert injustice.

Conceptual Framework

The Indian legal system has proven its dedication to environmental protection with its expansive jurisprudence, which has significantly increased Indian residents' access to environmental justice. The Supreme Court, in particular, has taken a proactive role in defending the environmental rights ingrained in the Indian Constitution.

Legal and Policy Framework: The first aspect of regulatory analysis is the legal and policy framework that establishes the environment court at local level. In India, the National Green Tribunal of India (NGT) was established after a lengthy and complex process that was influenced by a number of issues. The first aspect that needs to be highlighted is the constitutional background, which demonstrates a continuous evolution from a lack of environmental protection principles (in the original text of the Constitution, in force since 1950) to the development of a bewildering array of environmental legal instruments and judicial actions. With the help of this research the researcher would like to propose a comprehensive Law covering various issues with regard to the green crimes. The present study come up with the precise evaluation and inquisition of the present jurisdiction as well as the system dealing with this environmental wrongs. In absence of specialized legislation relating to green crimes this research carries more importance.

Existential Legislation in India: The legal guidelines for environmental protection in India are as follows. Safety, public health, and other relevant offences are covered in Sections 268–294–A of the Indian Penal Code, 1860. These parts prioritise public health, and any action that endangers an individual's life or pollutes the environment is prohibited by the Code. The Wildlife Protection Act of 1972 (WPA) was passed to outlaw the hunting of a number of wild animals, birds, and plants. The Water Act of 1974 was passed to penalise those who break the law and to make it illegal for company employees to harm the environment. The 1981 Air Act 1980's, Forest Conservation Act. The Environment Protection Act of 1986 is a comprehensive law with numerous goals. The 1991 Public Liability Insurance Act.

International Standards and Cooperation: The regulatory framework for Environmental court and Green Crimes is also influenced by international standards. In India, the The Ministry of Environment, Forests, and Climate Change (hereafter MoEF), has initiated programs and schemes for the adoption of international conventions on environment law.

Overall, while India, the Australia, and the US have different regulatory environments for environment Protection, and efforts are underway to develop frameworks to achieve this. The evolving nature of the regulatory environment for protection from Green crime is necessary to keep up with developments in this field.

Research Design

Research Methodology: Both empirical and non-empirical research methodologies were used in this study. Case studies, surveys, and interviews with experts, stakeholders, policymakers, and business leaders will be used to gather the primary data.

Secondary data can be collected from government reports, publications, existing laws and regulations, and other relevant sources like various text books, reference books, te cases decided by the courts, Laws Passed by the legislature and another relevant Treaties, conventions and research Articles.

During the non-empirical study, a comparative research design approach shall also be adopted which would include analysis of the regulatory frameworks in India, US, and Australia. This would involve a critical examination of the legal and regulatory structures, policy approaches. The research will also involve a review of relevant literature, reports, and case studies on Green Crimes and Environment Court regulation in healthcare and smart cities.

Sample: The sample for this study will consist of policymakers, authorities, experts, academics, from India, the United States, and the Australia. The sample size will be determined based on the feasibility and availability of participants.

Data Collection: The primary data will be collected through surveys, interviews, and case studies. Surveys will be conducted with the participants to collect their opinions and perceptions about the regulatory frameworks on Environment Court at local level. Interviews will be conducted with the policymakers, environment experts, and Authorities dealing with these matters. Case studies will be conducted to examine the implementation of the regulatory frameworks in specific healthcare and smart city projects. The secondary data will be collected from various sources, such as government reports, academic publications, and judgements.

Data Analysis: Both qualitative and quantitative research techniques will be used to assess the information gathered from the surveys, interviews, and case studies.

To find the themes and patterns in the qualitative data, content analysis will be used to analyses it. In order to determine the distinctions and affinities among the regulatory frameworks in India with various nations., the quantitative data will be statistically evaluated.

Expected Outcome: With the help of this research the researcher would like to propose a comprehensive Law covering various issues with regard to the green crimes. The present study come up with the precise evaluation and inquisition of the present jurisdiction as well as the system dealing with this environmental wrongs. In absence of specialized legislation relating to green crimes this research carries more importance.

The research would be of great significance and assistance for the current examination and drafting specific and comprehensive code on one of the most important aspect of human life that is Environment.

Chapterisation

Chapter 1: Introduction

- Background and context of the study
- Problem statement and research questions
- Significance and scope of the study
- Objectives and methodology

Chapter 2: Historical Perspective of Green Crime

- Historical Evolution of Green Crime
- Understanding the concepts Green Crime
- Development of Green Crime in India

Chapter 3: Legislative framework for Green Crimes in India

- Comparative analysis of the regulatory approaches
- Analysis of key laws and regulations, such as Environment Protection Act, Forest Act 1927, Indian Penal Code 1860 etc.
- Discussion of the impact of regulatory frameworks on Green Crime.

Chapter 4: National Green Tribunal

- Overview of NGT its establishment, purpose and objective.
- Jurisdiction of National green tribunal in India
- Discussion on Landmark judgments given by NGT

Chapter 5: Jurisdiction of Indian courts on matters related to Environment

- Comparative analysis of jurisdiction of in Indian courts with various other countries
- Discussion of the impact on other courts considerations on the establishment of environment court at local level

Chapter 6: Examination and sustainability or specific jurisdiction and model legislation

- Comparative analysis of specific jurisdiction India with various other nation
- Formulation of model legislation.

Chapter 7: International Concept of Environment courts

- Overview of international organizations on environmental law

- Comparative analysis of international conventions.
- Analysis of key organizations and initiatives, such as UNEP, UNFCCC, IPCC, WNO, etc.

Chapter 8: Findings, Conclusion, Recommendations and Suggestions

- Analysis of findings and key takeaways
- Implications for policymakers, regulators, and Schemes by government
- Limitations of the study and future research directions
- Recommendations and Way forwards

Proposed Plan of Work

S. No.	Proposed Work	Tentative Date
1.	Thesis Proposal Defense	March 2023
2.	Extended Literature Review	April, 2023
3.	Identify Stakeholders and collect Empirical Data	May, 2023
4.	Chapter 1 & 2	June, 2023
5.	Chapter 3 & 4	July, 2023
6.	Chapter 5 &6	September, 2023
7.	Chapter 7 & 8	November, 2023
8.	Publications	November, 2023
9.	Thesis Submission	January, 2024

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